

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

STATEMENT OF DECISION OF THE TRIBUNAL UNDER SECTION 24(1) OF THE HOUSING (SCOTLAND) ACT 2006

In connection with

**Property at 49 Bolivar Terrace, Glasgow G42 9AT (hereinafter referred to as
"the House")**

**Andrew Bulman, formerly residing at 49 Bolivar Terrace, Glasgow G42 9AT
(hereinafter referred to as "the Tenant")**

**Geraldine Haldane, 19 Huntley Gardens, Blantyre, South Lanarkshire G72
(hereinafter referred to as "the Landlord")**

Chamber Ref: FTS/HPC/RP/17/0442

DECISION

The Tribunal, having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 (hereinafter "the Act") in relation to the House, and taking account of the evidence led on behalf of the parties at the inspection and of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 28 November 2017 (hereinafter referred to as "the Application") the Tenant applied to the Tribunal for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and, in

particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

“(a) the house is wind and water tight and in all other respects reasonably fit for human habitation”

The Tenant complained about: penetrating dampness throughout the House, the condition of walls and ceilings, a leak from the bathroom and smells from the kitchen drains.

By letter of 13 February 2018, the President of the Tribunal intimated a decision to refer the application under section 23(1) of the Act for determination. On the same day, having been informed that the Tenant had vacated the House, the President issued a Minute of Continuation under paragraph 7(2) of schedule 2 to the Act.

The Tribunal comprised the following members:

John McHugh, Chairperson
Greig Adams, Ordinary (Surveyor) Member.

The Tribunal served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

A hearing and inspection were fixed for 10 April 2018.

The Tribunal inspected the House on 10 April 2018. The Tenant was not present. The Landlord represented by her mother.

Following the inspection, the Tribunal held a hearing at Elite Training Centre, Blythswood Square, Glasgow. Neither party was present or represented. The Tribunal considered the written evidence submitted by the parties and their submissions.

Submissions at the Hearing

There were none although the Landlord's mother did provide us at the inspection a letter from the Landlord, who was said to be ill and unable to attend. The letter contained a list of works recently undertaken at the property.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

Findings in Fact

The Tribunal confined its inspection to the items of complaint detailed within the Application.

The Tribunal made the following findings in fact:

- 1 The House is an end terrace house.
- 2 The Tenant was the tenant under a short assured tenancy agreement dated 30 April 2012.
- 3 Geraldine Haldane is the registered owner of the House.
- 4 The Tenant took possession of the House from 30 April 2012. The tenancy ended on or around February 2018.
- 5 The provisions of Chapter 4 of Part I of the Act apply to the tenancy.
- 6 The Tenant notified the Landlord's representative of the defects in the House which are now the subject of the Application by recorded delivery correspondence to the Landlord dated 22 December 2017.
- 7 The inspection on 10 April 2018 revealed:
 - a. The House shows signs of structural movement. A steel beam has been inserted in the end gable in an attempt to address this.
 - b. There was no evidence of smells from the kitchen drains.
 - c. There was no evidence of leaks from the bathroom.
 - d. There is evidence of penetrating dampness at various locations in the House.
 - e. Floors are highly uneven throughout the House.
 - f. Various double glazing units have failed.

- g. The electrical consumer unit's casing is cracked.
- h. The stairs leading to the kitchen have been affected by structural movement and are unsafe.
- i. The render to the exterior walls is in poor condition.

A schedule of photographs taken at the inspection is attached to this Decision.

Reasons for the Decision

Penetrating Dampness

Most of the interior rooms have been repainted recently and some plasterwork has been carried out. The exterior walls have also recently been painted with water proof paint.

In the front facing bedroom located to the left as the House is viewed from the front, high damp levels were noted in the wall separating the House from its neighbour. These may be as a result of recent plasterwork which is yet to dry out.

In the master bedroom the walls had been lined so that testing the walls for moisture was not possible.

In the rear facing top level bedroom, very high moisture readings were noted in the alcove near the window.

A hole is present in the hall ceiling adjacent to the sky light.

In the lower bedroom, high moisture readings were found in the rear facing wall to the left of the window.

In the kitchen and dining room, high moisture readings were present at the lower levels of the walls.

The exterior render was very poor and recent repairs seemed to be amateurish, ineffective repairs. The recent coating of water proof paint may aggravate problems as it will prevent the cement rich mortar used from "breathing".

Other Issues

There was no evidence of a leak from the bathroom and no evidence of smells emanating from the kitchen drains.

The Repairing Standard

The Tribunal considers that the presence of high levels of dampness and the hole in the hall ceiling constitute breaches of the repairing standard. Accordingly, a Repairing Standard Enforcement Order should be made. Having regard to the fact that the House is unoccupied and the significant nature of the works required at the House, the Tribunal have allowed 180 days for the repairs to be carried out.

Observations

A number of matters were observed which were not part of the Application and in respect of which we cannot make a formal Order but which the Landlord would be well advised to give attention to:

The electrical consumer unit casing is cracked; a number of double glazing units have failed; the stairs leading into the kitchen have moved and are unsafe; the outbuildings are in very poor repair and may be unsafe; controls are missing from the boiler.

Decision

The Tribunal, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision of the Tribunal was unanimous.

Right of Appeal

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

Effect of Section 63 of the 2006 Act

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

John McHugh

John M McHugh
Chairperson

Date: 13 April 2018



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SCHEDULE OF PHOTOGRAPHS



1 Front Elevation of the House.



1 Gable Elevation lateral restraint remedial works.



2 Cracking emanating above joint of steelwork restraint



3 Stepped cracking to Gable Elevation.



4 Further view of Gable restraint steel



5 Joint of steel restraint.



6 Uneven and poorly detailed lead to wallhead parapet.



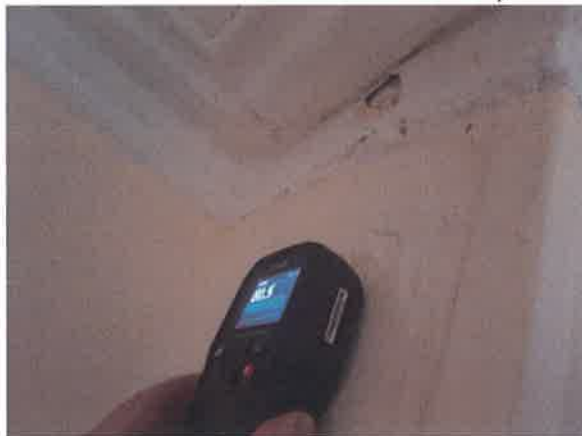
7 View of first floor and partial view of roof pitch.



8 View of leadwork to wallhead and front roof pitch.



9 Rear Elevation.



10 High moisture readings to First Floor Rear Bedroom.



11 Interlocking tiles (patch repaired) to rear outshot.



12 Roof over rear outshot.



13 Poor render to rear elevation above roof (boss under tap test).



14 Damage to ceiling surmounting staircase.



15 Rear Bedroom of original house to First Floor and alcove.



16 Bathroom.



17 Extract fan within Bathroom.



18 Rear Bedroom of Extension.



19 Cracking to render of Bathroom external wall.



20 Cracking to render of Bathroom external wall.



21 Dining Room



22 High moisture readings within Dining Room.



23 High moisture readings within Dining Room.



24 High moisture readings within Dining Room.



25 High moisture readings within Dining Room.



26 Consumer unit – cracked/damaged.



27 High moisture readings within Kitchen.



28 Water staining within Kitchen to boxing.



29 Low level dampness to Kitchen and defective plaster.



30 Boiler.



31 Damaged knob control.



32 Vent and expanding foam below sink unit.



33 Dropped staircase to Kitchen.



35 Outbuildings.



36 Damage to render.